

Judge Berman

08 CV 0462

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
RHINESTONE JEWELRY CORP. :

Plaintiff, :

vs. :

GLAMOUR GODDESS JEWELRY, INC.
and DON GOLDEN, :

Defendants. :
-----X

Civil Action No.

COMPLAINCASHIERS

(Jury Trial Demanded)

Plaintiff Rhinestone Jewelry Corp. by its attorneys, as and for its Complaint against the Defendants Glamour Goddess Jewelry, Inc. and Don Golden alleges as follows:

JURISDICTION AND VENUE

1. This complaint alleges causes of action for copyright infringement under the Copyright Laws of the United States, 17 U.S.C. §101 et seq.
2. Jurisdiction over the subject matter of this action is conferred on this Court by 28 U.S.C. §1338(a) and 17 U.S.C. §101 et seq.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b) and 1400(a).

THE PARTIES

4. Plaintiff Rhinestone Jewelry Corp. (hereinafter "Plaintiff") is a corporation organized and existing under the laws of the State of New York, with an office

and principal place of business at 2028 McDonald Avenue, Brooklyn, New York, 11223.

5. Plaintiff is a designer, manufacturer, and vendor of rhinestone jewelry products. Such products are distributed and sold in this judicial district and throughout the United States.
6. Plaintiff's many products are advertised on its Website located at www.rhinestonejewelry.com. The wholesale prices of Plaintiff's products are prominently disclosed on Plaintiff's Website.
7. Upon information and belief, Defendant Glamour Goddess Jewelry, Inc. (hereinafter "Glamour") is a corporation organized and existing under the laws of the State of Florida, with an office and principal place of business at 500 N.E. Spanish River Blvd., Boca Raton, FL 33431.
8. Upon information and belief, Glamour sells rhinestone jewelry products within this State and judicial district, transacts business within this State and judicial district, derives substantial revenue from intra-state and inter-state commerce, and has committed acts of infringement within this State and judicial district having injurious consequences within the State and judicial district, and is otherwise within the jurisdiction of this Court.
9. Glamour's products are advertised on its Website located at www.glamourgoddessjewelry.com. The wholesale price of Glamour's products

are prominently disclosed on its Website.

10. In October of 2006, Glamour purchased rhinestone jewelry products from Plaintiff, including some of the specific designs at issue herein.
11. Upon information and belief Defendant Don Golden (hereinafter "Golden") is the President and owner of Defendant Glamour and resides in the State of Florida. Upon information and belief, Golden controls the activities of Glamour, and through Glamour does business within this State and judicial district, derives income from intra-state and inter-state commerce, and has committed and contributed to acts of infringement within this State and judicial district having injurious consequences within the State and judicial district, and is otherwise within the jurisdiction of this Court.

COUNT I

(COPYRIGHT INFRINGEMENT)

12. This cause of action for Copyright infringement arises under the Copyright Laws of the United States, Title 17 United States Code.
13. Plaintiff is the owner of a valid copyright in and to many rhinestone jewelry designs, including those within its "Large Chandelier Earring Collection" (hereinafter "the Designs at Issue").
14. The Designs at Issue and other jewelry designs offered by Plaintiff are advertised

for sale on Plaintiff's Website located at www.rhinestonejewelry.com. The wholesale prices of each of Plaintiff's products are also disclosed on Plaintiff's Website.

15. Upon information and belief, Defendants had access to Plaintiff's designs by virtue of the fact that they had previously purchased products from Plaintiff. Upon information and belief, Defendants also had access to Plaintiff's designs through Plaintiff's Website.
16. Upon information and belief, Defendants with full knowledge of the rights of Plaintiff, have copied more than fifty (50) of Plaintiff's designs. In addition, and in a further effort to unfairly compete with Plaintiff, Defendants are selling each of those fifty knock-off items for slightly less than Plaintiff's published price. Attached hereto as Exhibit A are comparison photos of a representative sample of Plaintiff's original designs and Defendants' corresponding knock-offs, and a chart comparing the parties published prices.
17. The Designs at Issue are the subject of a valid and subsisting United States Copyright Registration, i.e., U.S. Copyright Registration No. VA 1-421-603. A copy of said issued U.S. Copyright Certificate is attached hereto as Exhibit B.
18. Upon information and belief, Defendants having full knowledge of the copyright rights of Plaintiff as alleged herein, have infringed Plaintiff's copyright in the Designs at Issue by advertising, importing, vending, distributing, selling, displaying, and/or promoting jewelry items that are copied from the Designs at

Issue, in violation of the rights of Plaintiff under 17 U.S.C. §101 et seq.

19. All of the Defendants acts as set forth herein were without the permission, license or consent of Plaintiff, and have irreparably damaged Plaintiff.
20. The acts of the Defendants as set forth herein have damaged Plaintiff in an amount as yet unknown, but believed to be in excess of two hundred and seventy thousand dollars (\$270,000).
21. Plaintiff has no adequate remedy at law.

**COUNT II
CONTRIBUTORY COPYRIGHT INFRINGEMENT**

22. This cause of action for contributory copyright infringement is against Defendant Don Golden, and individually arises under the Copyright Laws of the United States, Title 17 United States Code.
23. Plaintiff repeats and realleges the allegations of paragraphs 1 through 22 hereof as if fully set forth herein.
24. Upon information and belief, Golden knew that the activities as described herein constituted infringement of Plaintiff's copyrights.
25. Upon information and belief, Golden directed, supervised and participated in the

infringement of Plaintiff's copyrights.

26. Upon information and belief, the infringement as described herein resulted in a financial benefit to Golden.
27. Upon information and belief, Golden's participation in and contribution to the infringement of Plaintiff's copyrights has been willful.
28. The acts described herein were undertaken without the permission, license or consent of Plaintiff and were irreparably damaging to Plaintiff.
29. Plaintiff has been damaged by these acts in an amount as yet unknown, but believed to be in excess of one hundred thousand dollars.
30. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff demands:

A. That Defendant Don Golden and Defendant Glamour, and Defendant Glamour's directors, officers, agents, servants, employees, related companies, parent companies, subsidiaries, licensees, assigns, and all parties in privity with it, or any of them, be enjoined, temporarily and preliminarily during the pendency of this action, and permanently, from infringing the Copyrights of Plaintiff, in any manner, including but not limited to, advertising, importing, printing, reprinting, publishing, vending, distributing,

selling, displaying or promoting products containing designs that are substantially similar to Plaintiff's designs which are the subject of Plaintiff's copyright, or by causing and/or participating in such advertising, importing, printing, reprinting, publishing, vending, distributing, displaying, selling or promoting;

B. That all of the Defendants be required to deliver up to be impounded during the pendency of this action, all infringing products in its possession, custody or under its control;

C. That, pursuant to 17 U.S.C. §504, all of the Defendants be required to pay Plaintiff such damages as Plaintiff sustained in consequence of its infringement, and to account for all gains, profits and advantages derived by them from said infringement;

D. That statutory damages be assessed against all of the Defendants, and that such damages be increased to the maximum amount allowed by law by virtue of Defendants willful infringement.

E. That Defendants pay Plaintiff's reasonable attorneys' fees; and

F. That Plaintiff have such other and further relief as the Court may deem just.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial of all issues triable by jury.

GOTTLIEB, RACKMAN & REISMAN P.C.

Attorneys for Plaintiff

270 Madison Avenue

New York, New York 10016

(212) 684-3900

(212) 684-3999

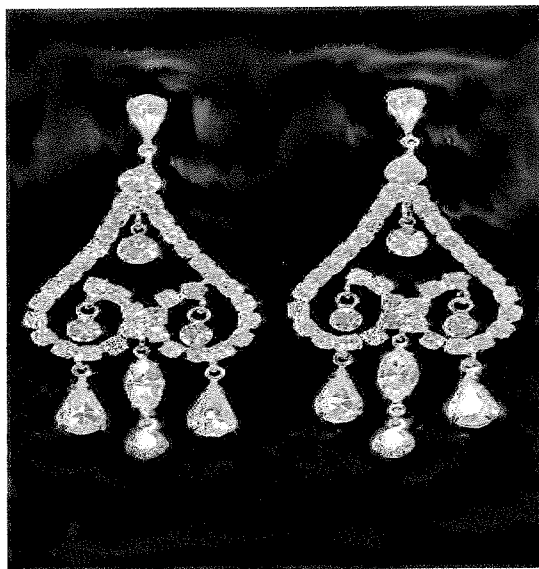
By: 

Richard S. Schurin (RS 0199)

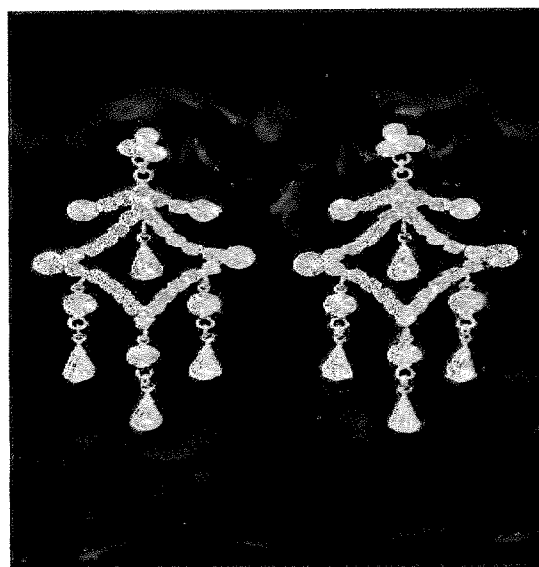
DATED: January 15, 2008

EXHIBIT A

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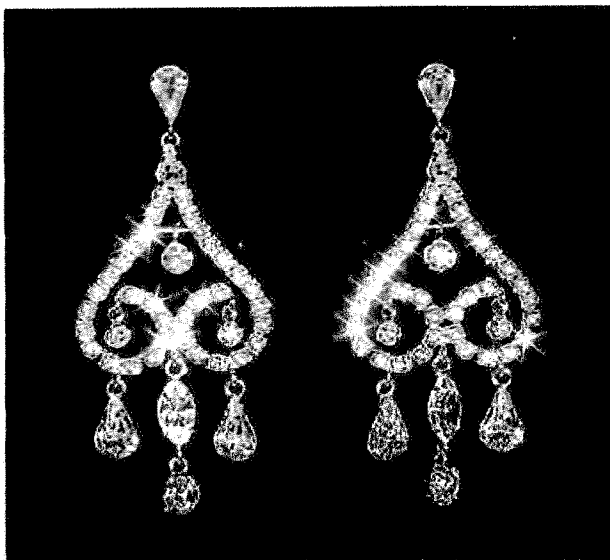


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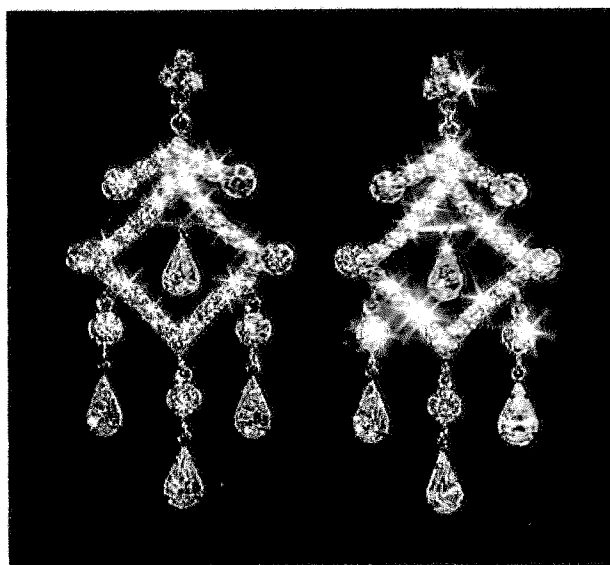


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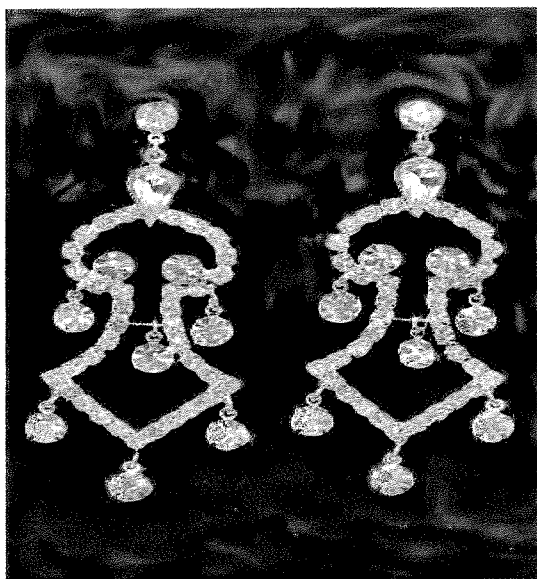
RhineStone Jewelry



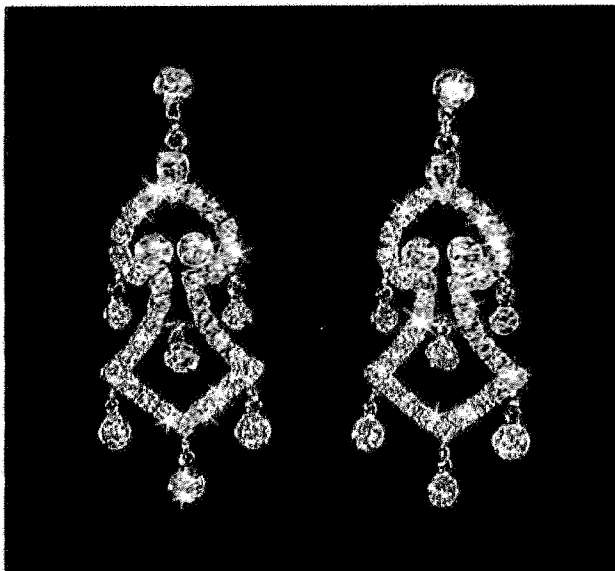
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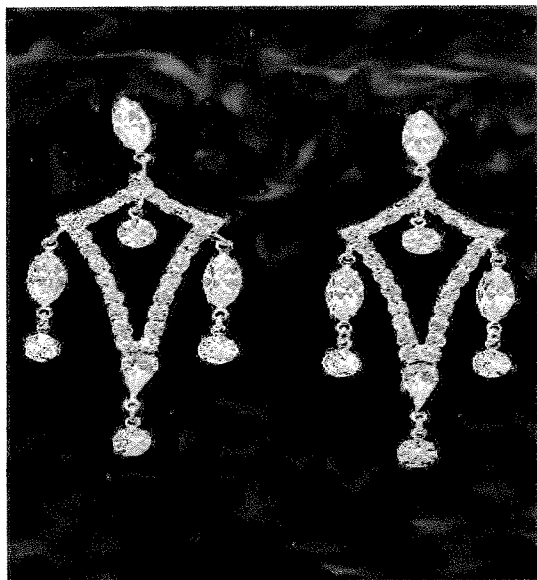
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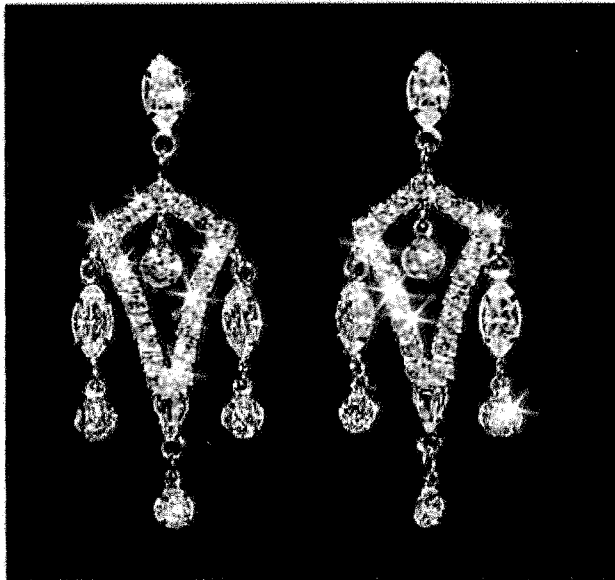
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ER029CS



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ER033CS



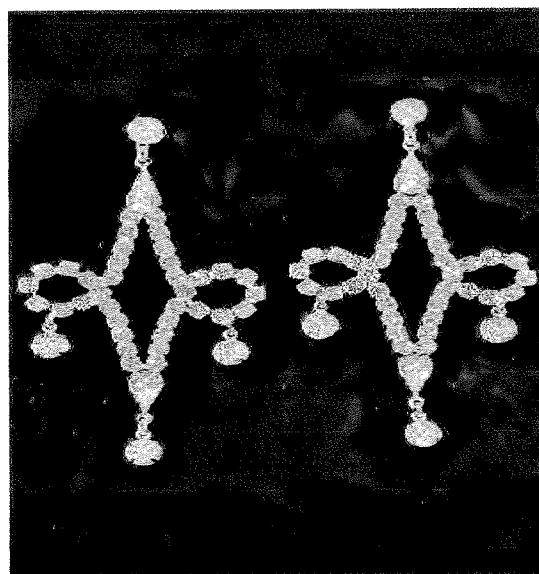
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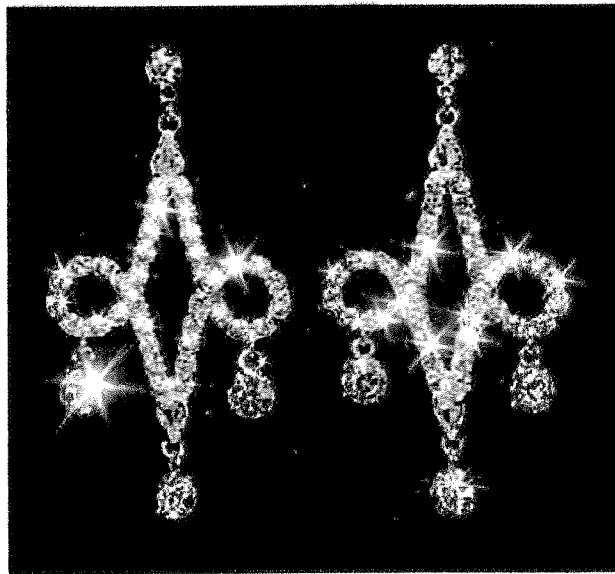
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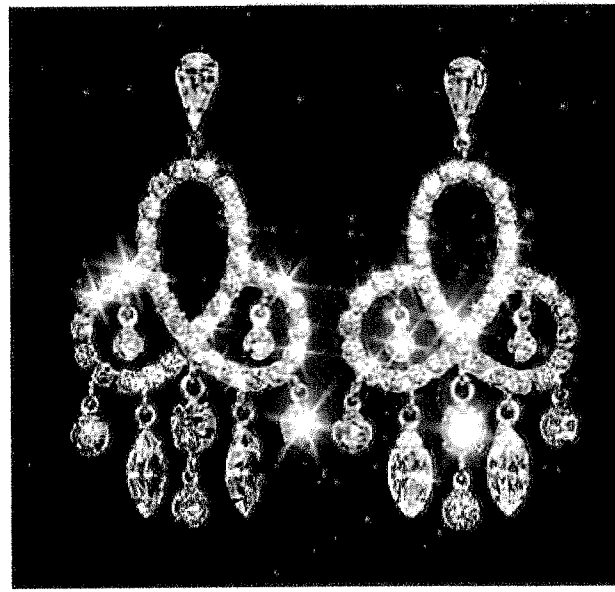
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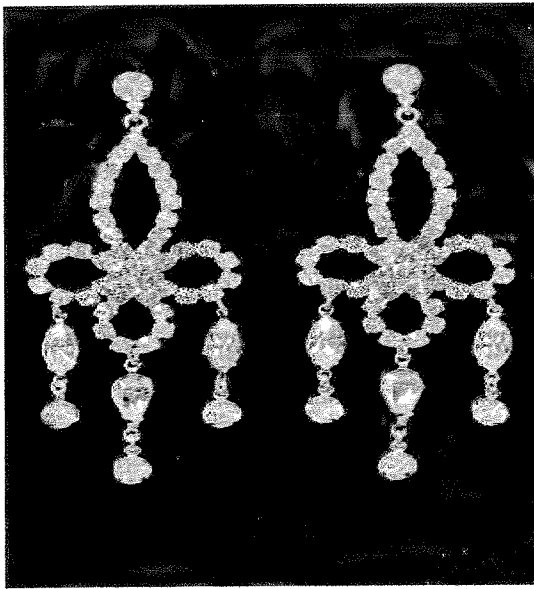
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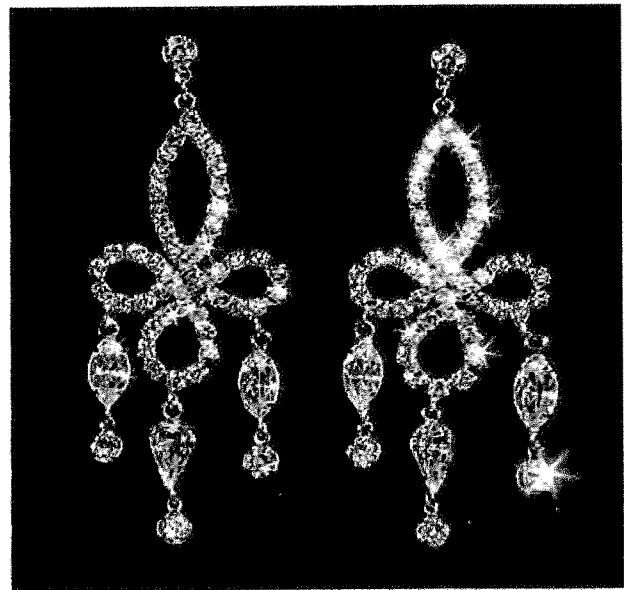
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ER061CS



12321

Glamour Goddess #	Glamour Goddess Price	Rhinestone #	Rhinestone Price
BA427CS	\$2.33	#12084	\$2.80
BA439CS	\$1.95	#12083	\$2.20
BA429CS	\$3.42	#6279	\$3.45
BA445CS	\$3.57	#6438	\$3.65
BA437CS	\$3.75	#12708	\$3.90
BA441CS	\$4.00	#12707	\$4.00
BA443CS	\$4.13	#13620	\$4.25
BA449CS	\$4.81	#12235 (smaller)	\$5.30
BA459CS	\$4.73	#11649	\$7.75
BA467CS	\$4.29	#12157	\$5.80
HC351CS	\$3.57	#12697	\$3.65
HC357CS	\$1.95	#12699	\$2.55
BR201CS	\$3.15	#11113S	\$3.60
BR203CS	\$10.69	#13267XS	\$12.25
BR209CS	\$3.15	#13621	\$3.45
BR213CS	\$14.82	#13268XS	\$17.50
BR207CS	\$6.50	#13282	\$8.25
BR215CS	\$4.42	#11949XS	\$5.00
BR225CS	\$7.46	#12162	\$12.25
ER001CS	\$6.73	#12327	\$6.85
ER003CS	\$4.99	#5365	\$5.00
ER019CS	\$5.74	#13238	\$5.75
ER021CS	\$4.28	#12344	\$6.65
ER025CS	\$4.42	#12330	\$4.45
ER029CS	\$4.62	#12323	\$4.65
ER033CS	\$5.58	#12325	\$5.65
ER037CS	\$7.50	#12324	\$7.50
ER041CS	\$5.60	#12322	\$5.65
ER043CS	\$4.84	#12592	\$5.15
ER045CS	\$6.02	#12326	\$6.10
ER061CS	\$6.79	#12321	\$6.85
ER063CS	\$6.42	#10011	\$8.50
ER065CS	\$9.41	#10001	\$11.50
ER069CS	\$6.45	#12350	\$6.95
ER075CS	\$9.10	#12591	\$9.25
ER083CS	\$8.13	#13106	\$8.50
ER085CS	\$4.28	#12348	\$4.80
HD723CS	\$15.60	#12190	\$17.00
HD724CS	\$15.75	#12734	\$17.50
HD729CS	\$3.45	#11247	\$6.40
HD751CS	\$6.79	#12194	\$7.75
NS606CS	\$8.47	#12924	\$10.00
NS607CS	\$4.51	#12874	\$9.25

NS608CS	\$12.69	#12859	\$14.75
NS624CS	\$13	#12869	\$14.25
NS652CS	\$7.13	#12444	\$10.00
NL169CS	\$15.54	#12218	\$20.25
PT497CS	\$6.73	#11572	\$7.00
PT505CS	\$4.99	#11154	\$5.00
PT513CS	\$6.50	#11574	\$6.50
PT529CS	\$7.41	#11573	\$7.75
PT537CS	\$3.94	#7583	\$4.15

EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
Register of Copyrights, United States of America



Form VA

For a Work of the Visual Arts

VA 1-421-603

REGIS



KUG0081421603

EFFECTIVE DATE OF REGISTRATION

4 20 07
Month Day Year

DO NOT WRITE ABOVE THIS LINE. YOU WILL HAVE MORE SPACE FOR AN ADDITIONAL CONTINUATION SHEET.

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

Large chandelier Earring Collection 03-0336-0353 Jewelry Design
Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Rhinestone Jewelry Corporation

Was this contribution to the work a "work made for hire"?

☒ Yes
☐ No

Author's Nationality or Domicile

OR { Citizen of
Domiciled in USA

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☒ Jewelry design ☐ Architectural work

Name of Author ▼

Dates of Birth and Death
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes
☐ No

Author's Nationality or Domicile

OR { Citizen of
Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was Completed

2003

This information must be given in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published. Month November Day 3 Year 2003 USA Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

Rhinestone Jewelry Corporation
2028 Mc Donald Avenue
Brooklyn, NY, 11223

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• Sign the form at line 9.

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

APR 20 2007
FUNDS RECEIVED

DO NOT WRITE HERE

Page 1 of 1 pages

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided; give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

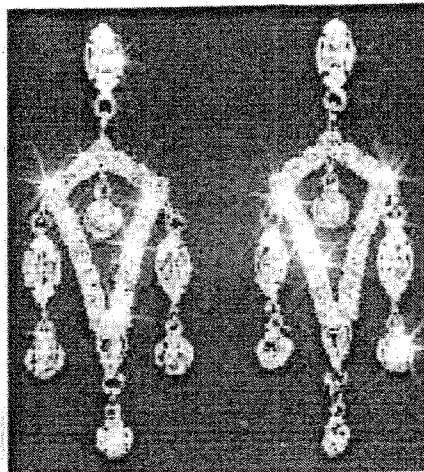
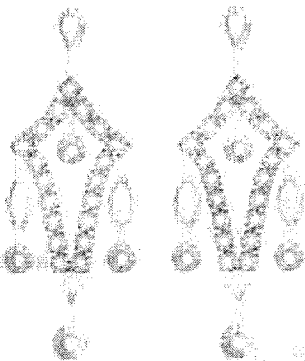
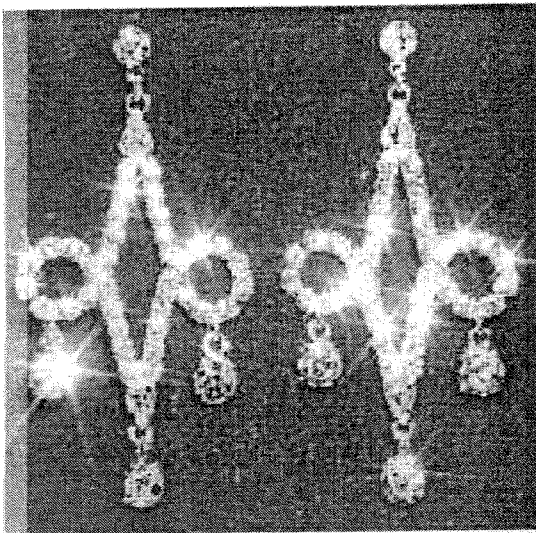
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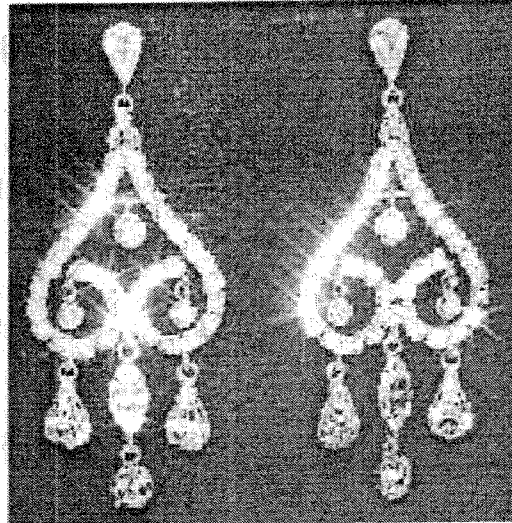
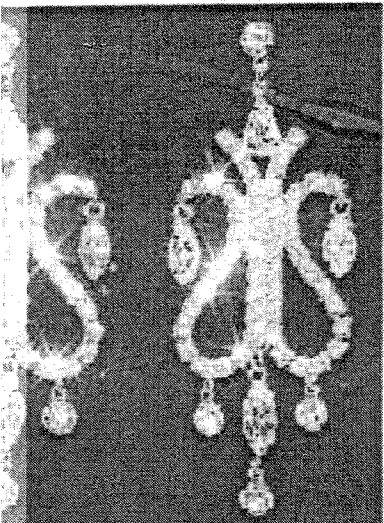
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page 1 of 2

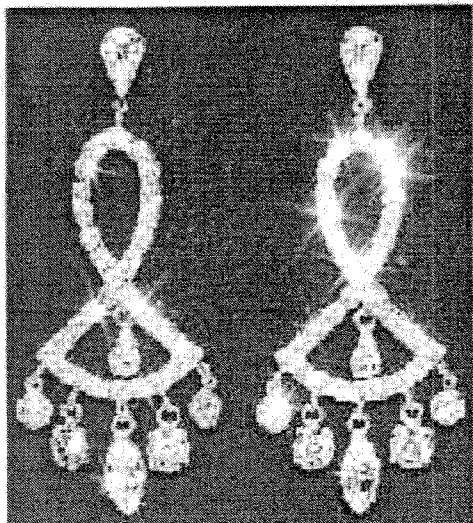
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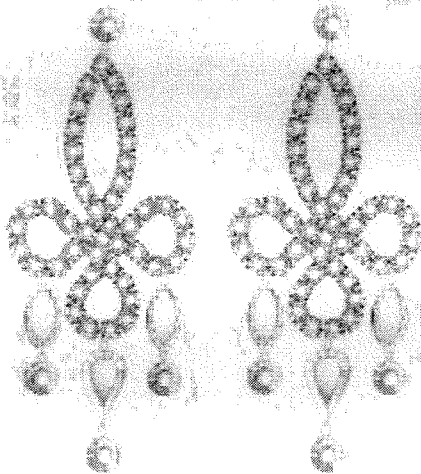
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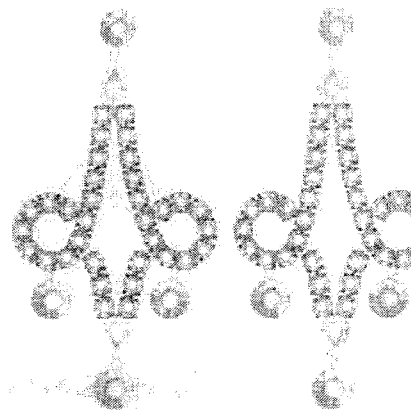
RHINESTONE JEWELRY

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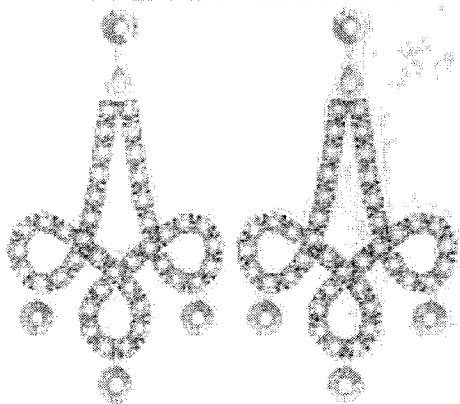
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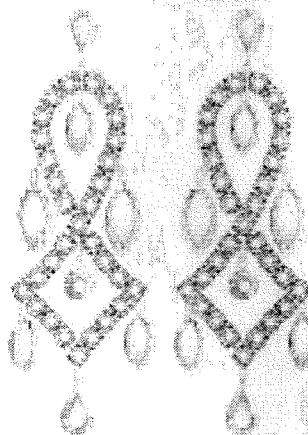
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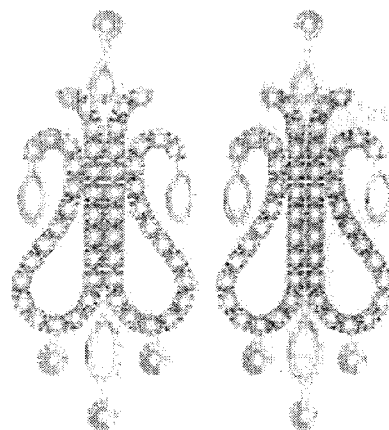
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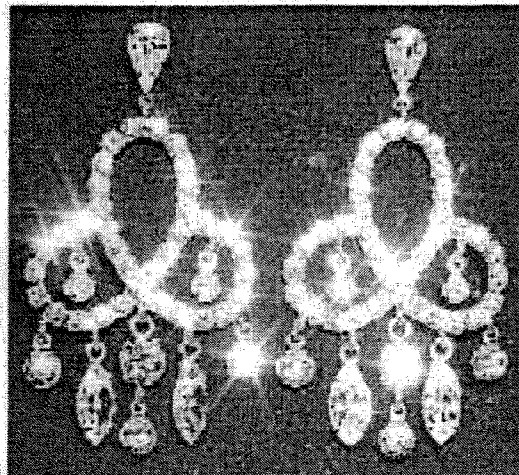
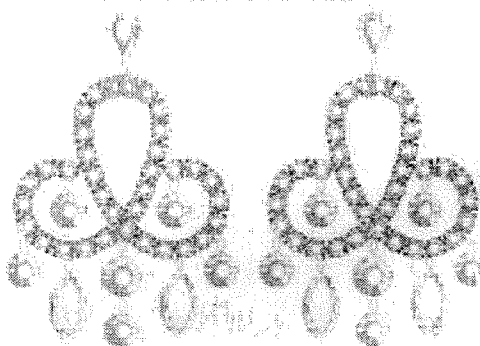
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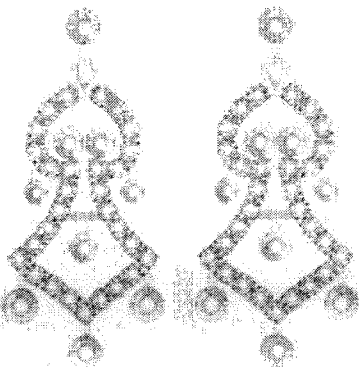
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RHINESTONE JEWELRY

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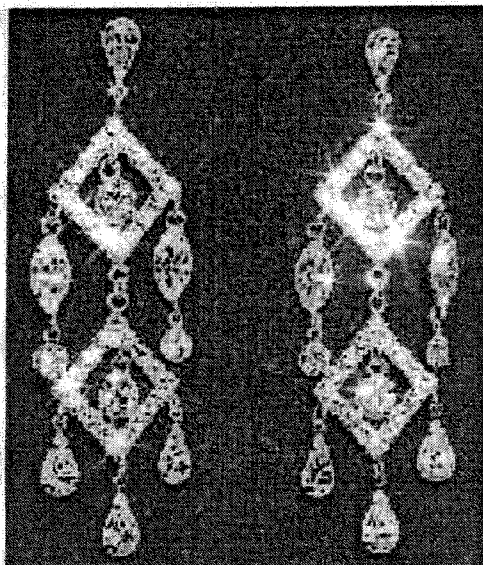
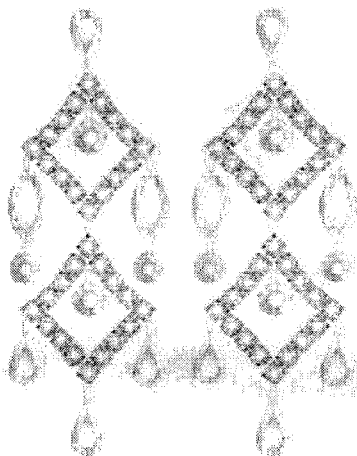
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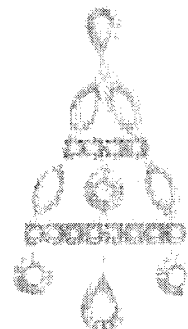
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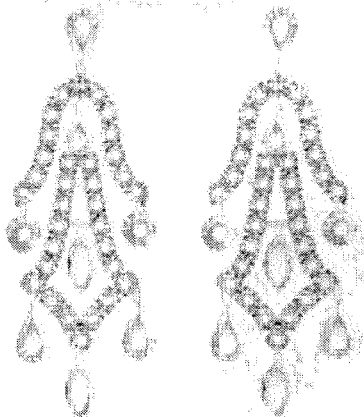
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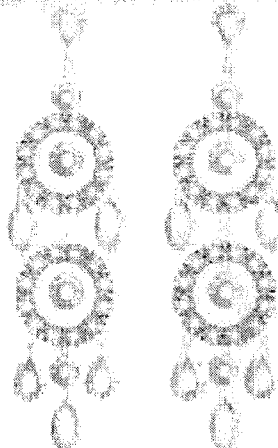
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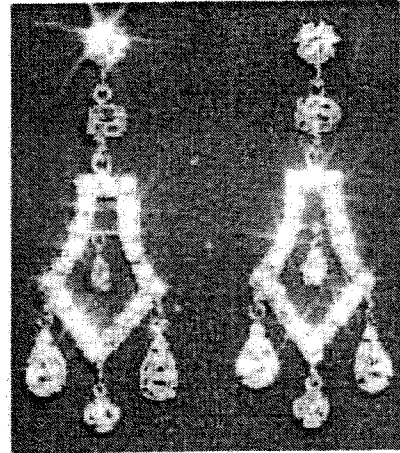
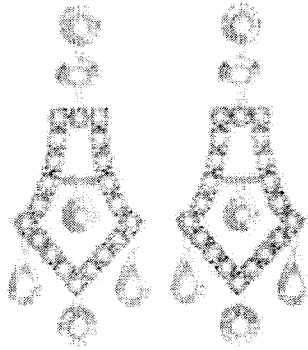
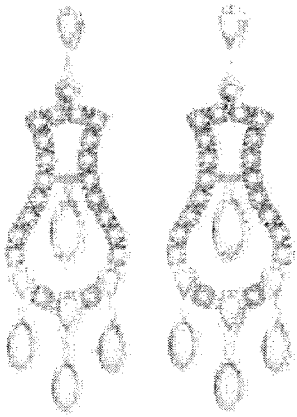
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Chandelier Earring Collection 03-0336-0353

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ART NUMBER RDE03-0347

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STYLE NUMBER 12328

L-0350

